



October 5, 2012

To: Citizen Participation Organizations and Interested Parties

From: Andy Back, Interim Long Range Planning Manager
Department of Land Use & Transportation

Subject: **PROPOSED A-ENGROSSED ORDINANCE NO. 756**

On July 30, 2012, you were notified about initial public hearings for proposed Land Use Ordinance No. 756 before the Planning Commission on September 5, 2012, and the Board of County Commissioners (Board) on October 2, 2012. On October 2, the Board ordered substantive amendments to this ordinance. These changes have been incorporated into proposed **A-Engrossed Ordinance No. 756** and are summarized below.

Ordinance Purpose and Summary

Ordinance No. 756 proposes to add new Section 217 DIRECTOR'S INTERPRETATION to the Community Development Code (CDC).

Who Is Affected

Persons requesting a Director's Interpretation and/or a Development and Property Information request

What Land is Affected

Properties subject to a Director's Interpretation and/or a Development and Property Information request

Original Ordinance No. 756 Provisions

As originally filed, Ordinance No. 756 proposed the following:

- Add a new Community Development Code (CDC) Section 217 DIRECTOR'S INTERPRETATION
- Establish a Type II procedure for further interpretation of CDC terms and phrases, addressing uses not provided for in the CDC, making determinations of similar uses and determining conformity of properties through Development and Property Information requests

Proposed A-Engrossed Ordinance No. 756 Provisions

Proposed **A-Engrossed Ordinance No. 756** incorporates all of the above-described amendments plus the following proposed amendments:

- Adds language to Section 217-1 clarifying the purpose of Director's Interpretation
- Adds Section 217-3.4 requiring the county to send public notice of pending review and notice of decision to all Citizen Participation Organizations (CPOs) when a Director's Interpretation does not involve a specific property
- Amends CDC Section 204-3.1 C. to require that all CPOs receive public notice of pending review when a Director's Interpretation is submitted that does not involve a specific property
- Makes various wordsmith and numbering changes

Public Hearings - Time and Place
Board of County Commissioners

October 16, 2012
10:00 am

October 23, 2012
6:30 pm

Hearings will be held in the Shirley Huffman Auditorium in the Charles D. Cameron Public Services Building, 155 N. First Avenue, Hillsboro, Oregon.

On October 23, the Board may choose to adopt the ordinance, make changes to it, continue the hearing to a future date, or reject the ordinance. If it is adopted, it would become effective on November 22, 2012.

**Urban Comprehensive
Plan Policies Amended**

➤ None

**2020 Transportation
Plan Policies Amended**

➤ None

**Community
Development Code
Standards Amended**

➤ New Section 217 DIRECTOR'S INTERPRETATION

**Urban Community
Plan(s) Amended**

➤ None

**How to Submit
Comments**

Submit oral or written testimony to the Board at one of the public hearings. Written testimony may be mailed or faxed to the Board in advance of the public hearings in care of the Long Range Planning Division. **We are unable to accept e-mail as public testimony.**

Washington County, Long Range Planning Division
155 N. First Ave., Suite 350-14, Hillsboro, OR 97124-3072
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Staff Contact

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**Proposed Ordinance is
available at the
following locations:**

- Washington County Department of Land Use & Transportation
Long Range Planning Division, 155 N. First Avenue
Hillsboro, OR 97124-3072 Telephone: 503-846-3519
- [www.co.washington.or.us/LUT/Divisions/LongRangePlanning/
2012-land-use-ordinances.cfm](http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2012-land-use-ordinances.cfm)
- Cedar Mill Community Library and Tigard Public Library
- Citizen Participation Organizations (CPOs); Call 503-821-1128 for a directory of CPOs.

AGENDA

Continued from 10/16/12

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Public Hearing – Third Reading and Third Public Hearing
Land Use & Transportation; County Counsel (CPO All)

Agenda Title: **PROPOSED A-ENGROSSED ORDINANCE NO. 756 – AN
ORDINANCE ADDING NEW SECTION 217 DIRECTOR’S
INTERPRETATION TO THE COMMUNITY DEVELOPMENT
CODE**

Presented by: Andrew Singelakis, Director of Land Use & Transportation;
Alan Rappleyea, County Counsel

SUMMARY:

A-Engrossed Ordinance No. 756 proposes to add new Community Development Code (CDC) Section 217 DIRECTOR’S INTERPRETATION. Proposed Section 217 would establish a Type II procedure for further interpretation of CDC terms and phrases, addressing uses not provided for in the CDC, making determinations of similar uses, and determining conformity of properties through Development and Property Information requests. A-Engrossed Ordinance No. 756 is posted on the county’s land use ordinance web page at the following link:

<http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2012-land-use-ordinances.cfm>

The Board conducted the first public hearing for Ordinance No. 756 on October 2. At the hearing, the Board ordered engrossment of the ordinance to implement staff’s recommendation to 1) add clarifying language to the Purpose section, 2) modify notice requirements and 3) make various wordsmith and numbering changes. The Board continued the hearing to October 16 for the first required public hearing for the engrossed ordinance. The October 23 hearing is the final required public hearing for A-Engrossed Ordinance No. 756.

The staff report for the October 23 hearing will be provided to the Board prior to the hearing, posted on the above land use ordinance web page prior to the hearing and copies of the report will be available at the Clerk’s desk.

Consistent with Board policy, testimony about the ordinance is limited to two minutes for individuals and five minutes for a representative of a group.

DEPARTMENT’S REQUESTED ACTION:

Read A-Engrossed Ordinance No. 756 by title only and conduct the third public hearing. At the conclusion of the hearing, adopt A-Engrossed Ordinance No. 756.

COUNTY ADMINISTRATOR’S RECOMMENDATION:

I concur with the requested action.

ADOPTED

Agenda Item No.	<u>3.b.</u>
Date:	10/23/12

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR WASHINGTON COUNTY, OREGON

A-ENGROSSED ORDINANCE No. 756

An Ordinance Amending the
Community Development Code Element
of the Comprehensive Framework Plan
to Provide for a Director's Interpretation
Process

The Board of County Commissioners of Washington County, Oregon ("Board") ordains as follows:

SECTION 1

A. The Board recognizes that the Community Development Code Element of the Comprehensive Plan (Volume IV) was readopted with amendments on September 9, 1986, by way of Ordinance No. 308, with portions subsequently amended by Ordinance Nos. 321, 326, 336-341, 356-363, 372-378, 380, 381, 384-386, 392, 393, 397, 399-403, 407, 412, 413, 415, 417, 421-423, 428-434, 436, 437, 439, 441-443, 449, 451-454, 456, 457, 462-464, 467-469, 471, 478-481, 486-489, 504, 506-512, 517-523, 525, 526, 528, 529, 538, 540, 545, 551-555, 558-561, 573, 575-577, 581, 583, 588, 589, 591-595, 603-605, 607-610, 612, 615, 617, 618, 623, 624, 628, 631, 634, 635, 638, 642, 644, 645, 648, 649, 654, 659-662, 667, 669, 670, 674, 676, 677, 682-686, 692, 694-698, 703, 704, 708, 709, 711, 712, 718-720, 725, 730, 732, 735, 739, 742-745, and 755.

B. Subsequent planning efforts of Washington County indicate there is much value, and need, to establish new Community Development Code provisions that would allow for a Director's Interpretation process to address new land uses, interpret words and phrases contained in the Community Development Code, and provide property-specific determinations. On October 2, 2012, at the first public hearing for Ordinance 756, the Board ordered engrossment to implement

1 staff's recommendation to (1) add clarifying language to the Purpose section, (2) modify notice
2 requirements, and (3) make various wordsmith and numbering changes. These changes to
3 Ordinance 756 are as depicted in this section and on the attached Exhibit 1 of this ordinance. The
4 Board takes note that such changes are for the welfare and benefit of the residents of Washington
5 County, Oregon.

6 C. Under the provisions of Washington County Charter Chapter X, the Department of
7 Land Use and Transportation has carried out its responsibilities, including preparation of notices,
8 and the County Planning Commission has conducted one or more public hearings on the proposed
9 amendments and has submitted its recommendations to the Board. The Board finds that this
10 Ordinance is based on those recommendations and any modifications made by the Board are a
11 result of the public hearings process;

12 D. The Board finds and takes public notice that it is in receipt of all matters and
13 information necessary to consider this Ordinance in an adequate manner, and finds that this
14 Ordinance complies with the Statewide Planning Goals, the standards for legislative plan adoption
15 as set forth in Chapters 197 and 215 of the Oregon Revised Statutes, the Washington County
16 Charter, the Washington County Community Development Code, and the Washington County
17 Comprehensive Plan.

18 SECTION 2

19 Exhibit 1 (3 pages), attached hereto and incorporated herein by reference, is hereby adopted
20 as amendments to the Community Development Code as follows:

21 A. Page 1: Section 204, NOTICE OF TYPE I, II OR III DEVELOPMENT ACTIONS:

22 Section 204-3 Type II Actions; and

1 B. Pages 2-3: Section 217, DIRECTOR'S INTERPRETATION: Section 217-1 Purpose,
2 Section 217-2 Applicability, Section 217-3 Procedure, Section 217-4 Application
3 Requirements, Section 217-5 Determination of Similar Uses, and Section 217-6
4 Expiration.

5 SECTION 3

6 All other Comprehensive Plan provisions that have been adopted by prior ordinance, which
7 are not expressly amended or repealed herein, shall remain in full force and effect.

8 SECTION 4

9 All applications received prior to the effective date shall be processed in accordance with
10 ORS 215.427.

11 SECTION 5

12 If any portion of this Ordinance, including the exhibit, shall for any reason be held invalid or
13 unconstitutional by a body of competent jurisdiction, the remainder shall not be affected thereby and
14 shall remain in full force and effect.

15 SECTION 6

16 The Office of County Counsel and Department of Land Use and Transportation are
17 authorized to prepare planning documents to reflect the changes adopted under Section 2 of this
18 Ordinance, including deleting and adding textual material and maps, renumbering pages or sections,
19 and making any technical changes not affecting the substance of these amendments as necessary to
20 conform to the Washington County Comprehensive Plan format.

21 SECTION 7

22 This Ordinance shall take effect thirty (30) days after adoption.

1 ENACTED this 23 day of October, 2012, being the 3rd reading and
2 3rd public hearing before the Board of County Commissioners of Washington County, Oregon.

3 BOARD OF COUNTY COMMISSIONERS
4 FOR WASHINGTON COUNTY, OREGON

5 **ADOPTED**

6 *Andy Olson*
CHAIRMAN

7 *Ana Noyola*
RECORDING SECRETARY

8 READING

PUBLIC HEARING

9 First October 2, 2012
10 Second October 16, 2012
11 Third October 23, 2012
Fourth _____
Fifth _____

First October 2, 2012
Second October 16, 2012
Third October 23, 2012
Fourth _____
Fifth _____

12 VOTE: Aye: Duyck, Schouten, Rogers, Terry
13 Recording Secretary: Ana Noyola

Nay: _____
Date: October 23, 2012

Amend Community Development Code Section 204 NOTICE OF TYPE I, II OR III
DEVELOPMENT ACTIONS as shown below:

* * *

204-3 Type II Actions

204-3.1 A public notice of pending review shall be mailed to:

- A. The applicant or representative and owners of the subject property;
- B. All property owners of record:
 - (1) Within five hundred (500) feet of the subject property in the Urban area; or
 - (2) Within one thousand (1000) feet of the subject property in the Rural area.
 - (3) When an access management plan is proposed, property owners within the study area defined in 501-8.5 C (3)(a); or
 - (4) When airport-related development is proposed on property within a Public or Private Use Airport Overlay District, property owners within the associated Airport Safety Overlay District, or Airport Safety and Land Use Compatibility Overlay District (whichever is applicable).
- C. The recognized Citizen Participation Organization in which subject property is located. When a Director’s Interpretation application submitted pursuant to Section 217 does not involve a specific property, public notice of pending review shall be provided to all Citizen Participation Organizations;

* * *

Add to the Community Development Code new Section 217 DIRECTOR’S INTERPRETATION as shown below:

217 DIRECTOR’S INTERPRETATION

217-1 Purpose

The purpose of the Director’s Interpretation is to address uses that are not explicitly provided for in this Code, to provide further interpretation of terms or phrases within this Code, make initial determinations of conformity through a Development and Property Information (DPI) request, and provide guidance and documentation for future application of this Code.

In addition to this interpretation process, interpretations can be made by the Board pursuant to Resolution and Order 98-35. Revisions to public policy shall not be made through Board or Director's Interpretations of this Code. Policy revisions shall be considered through a Type IV legislative process as described in Section 202-4. Director's Interpretations shall be used to provide guidance for consistent application of Code standards. For Type II applications on appeal and Type III applications, the Hearings Officer may consider the Director's Interpretation and may use and incorporate the interpretation into its findings.

217-2 **Applicability**

The Director shall have the initial authority and responsibility to interpret all terms, provisions, and requirements of this Code.

217-3 **Procedure**

217-3.1 A Director's Interpretation may be initiated by:

A. The Director;

B. A property owner or property owner's representative where an interpretation specific to that owner's property is requested; or

C. Any person to obtain an interpretation of specific terms within this Code where the terms and its interpretation are unrelated to specific property.

217-3.2 An application for a Director's Interpretation shall be processed as a Type II procedure in accordance with Section 202-2.1 and 202-2.2 of this Code.

217-3.3 Notice of a Director's Interpretation shall be provided as set forth in Section 202-2.3 for an interpretation involving a specific property only.

217-3.4 Public notice of pending review of a Director's Interpretation shall be provided to all Citizen Participation Organizations (CPOs) as set forth in Section 204-3.1 C. of this Code for an interpretation that does not involve a specific property. Notice of decision shall be provided to all CPOs as set forth in Section 204-3.4 of this Code.

217-3.5 The Director may reject an application for a Director's Interpretation if:

A. The Director determines that the question presented can be decided in conjunction with a pending land use application, plan amendment, or land use permit; or

B. The Director determines that there is a compliance case pending in which the same issue will be decided.

217-3.6 When the Director determines that an application shall not be accepted, the fee submitted will be returned to the applicant less a processing fee.

217-3.7 The Director's decision to accept or not accept an application under Section 217 shall be the County's final decision.

217-3.8 The Review Authority may impose conditions on the Director's Interpretation.

217-3.9 Appeals shall be processed in accordance with Section 209 of this Code and shall be to the Hearings Officer.

217-4 Application Requirements

217-4.1 An application for a Director's Interpretation shall be submitted when one or more of the following apply:

A. The owner of the property or the property owner's representative is requesting an interpretation relating to the use of the owner's property.

B. A request has been made to the Director to provide a Development & Property Information (DPI) determination.

C. The interpretation of a specific term or terms within this Code is requested.

D. A determination of a similar use is requested.

217-4.2 An application shall be submitted on a form provided by the Director along with all application fees and evidence that a pre-application meeting has been held.

217-5 Determination of Similar Uses

When making determination of a similar use, the proposed use subject to the interpretation must be substantially similar to a use currently identified in the applicable district or in other sections of this Code.

217-6 Expiration

A Director's Interpretation shall not expire unless superseded by a subsequent Director's Interpretation or change to this Code.